

REMARKS

In response to the Office Action dated April 18, 2005, claims 7, 10, 13, 14, 23, 25, and 29-33 are amended. Additionally, claims 15 and 28 are cancelled. Claims 2, 3, 5, 6, 7-14, 16, 17, 22-27, 29-33 are pending.

Claim Rejections – 35 USC 112

Claims 13-17, 24-27 are rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement. The Office Action asserts that the deletion of the water component from claim 13 introduces new matter. The Office Action indicates that water appears to be a necessary component of the treatment process. This rejection is traversed.

The specification does not teach or suggest that water is a requirement. In fact the specification specifically contemplates water not included as a component. For example, paragraph 62 states:

As stated, the preferred method for mating the paint formulations of this invention is to first pre-mix the natural hectorite with phosphonate. A representative example of making a pre-mix is described in Example 1. If water is used in the pre-mix manufacture, spray drying the resultant product produces a hectorite/phosphonate powder which can easily be added to the paint formulation as is itself a preferred embodiment. As other options, a paint formulation company can separately mix natural hectorite and the phosphonate additive into a paint formulation.

Clearly, water is considered an optional ingredient to the hectorite and phosphonate mixture. It should be noted that this claim element is not directed to beneficiation process but to “treating beneficiated or unbeneficiated natural hectorite with one or more phosphonate additives.” Therefore, it is not relevant whether water is used in the beneficiation process. It is only relevant whether water is required in treating the hectorite with the phosphonate additives.

Claims 7, 10-17, 24-27, 29-30 are rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter the Applicant regards as the invention.

Claim 7 is rejected as not reciting a positive limitation for the use of the phrase “can be”. The claim is amended to substitute that phrase with the term “is”. Claim 7 is also rejected as

reciting improper Markush terminology. Claim 7 is amended in accordance with proper Markush terminology.

Claim 10 is rejected as reciting a confusing phrase. Claim 10 is amended in accordance with the Office Actions suggestion.

Claim 13 is rejected as not having proper antecedent basis for the phrase “the treated mixture.” Claim 13 is amended to refer to the treated “beneficiated or unbeneficiated natural hectorite.”

Claim 14 is rejected based on the reference to water and therefore lacking antecedent basis. Claim 14 is amended to be an independent claim.

Claim 15 is cancelled.

Claim 25 is rejected as it makes reference to “water” and “clay,” which are not recited in claim 13, the claim from which it depends. Claim 25 is amended to delete the reference to water and clarify the reference to claim 13.

Claim 29 and 30 are rejected as confusing with regard to the phrase “were added as a pregel” and “were added as a post corrective additive.” With regard to the tense of the phrase, the claims are amended to recite the claim in the present tense. The Office Action indicates that the claims are also confusing as to what, where and how they are added. The claims are amended to recite that the pregel is added to the metallic paint formulation. The addition of the composition of the present invention in the form of a pregel is supported by the specification. Such support can be found throughout the specification and specifically in paragraph 68 and example 4. Claim 30 is amended to recite that the clay, phosphonate and water are added to the metallic paint formulation as a post-correction additive. Support for this amendment is found in paragraph 68 and 143.

Claim 32 is rejected as having an inconsistent preamble with that of the claim from which it depends. Claim 32 is amended to recite a preamble consistent with claim 28. The claim is also amended to recite the claim in the present tense.

Claim 33 is rejected as reciting improper Markush terminology. Claim 33 is amended to correct the terminology.

Claim Objections

Claim 10 is objected to as reciting a range that is outside the range of claim 23, the claim from which it depends. Claim 23 is amended so that the range recited in claim 10 is narrower than the range recited in claim 23.

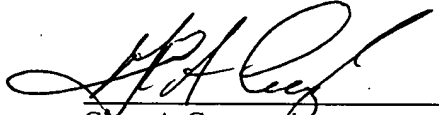
Claim 14 is objected to as being broader than claim 13. Claim 14 is amended to be an independent claim.

Claim 28 is objected to as not further limiting the claim from which it depends. Claim 28 is deleted and claims 29-32 are amended to depend from claim 23.

In view of the foregoing, Applicants submit that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should he believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

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